



PATENT
0512-1075

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Philippe BENEZECH et al.

Conf. 8355

Application No. 09/993,713

Group 2618

Filed November 27, 2001

Examiner Tu X Nguyen

ASSEMBLY COMPRISING A CABINET AND A SYSTEM FOR
COMMUNICATING BY RADIOFREQUENCY WAVES WITH OBJECTS
PLACED IN THE CABINET

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

August 21, 2006

Applicants request a pre-appeal brief review of the final rejection in the above-identified application. No amendments are being filed with this request. A Notice of Appeal is filed herewith.

The review is requested for the reasons advanced on the attached sheets.

Respectfully submitted,

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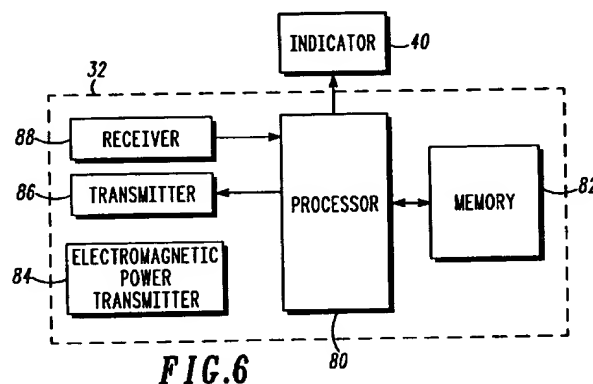


REASONS IN SUPPORT OF REQUEST FOR REVIEW

A pre-appeal brief review is respectfully requested because the pending rejections are based on at least clear factual error, or in the alternative, clear legal error.

Claims 1, 3-4, and 6-10 were rejected over REBER et al. 5,969,606 in view of KOBAYASHI et al. 6,367,266; and claim 2 in further view of MOSEBROOK et al. 5,736,965. Applicant requests review of these final rejections.

At line 4, page 3 of the April 21, 2006 Official Action, the Examiner states that elements 86, 88 of the device shown in REBER Figure 6 would constitute a first communication device as recited in claim 1, i.e., "a communication system that includes a first communication device outside said work space, a radio frequency antenna connected to said first communication device,". Figure 6 is reproduced below.



Column 2, lines 4 - 6, of REBER discloses that the tag communicating device 32 comprising elements 86, 88 is inside the

storage place illustrated by Figure 1. See the upper right-hand corner of Figure 1, reproduced below.

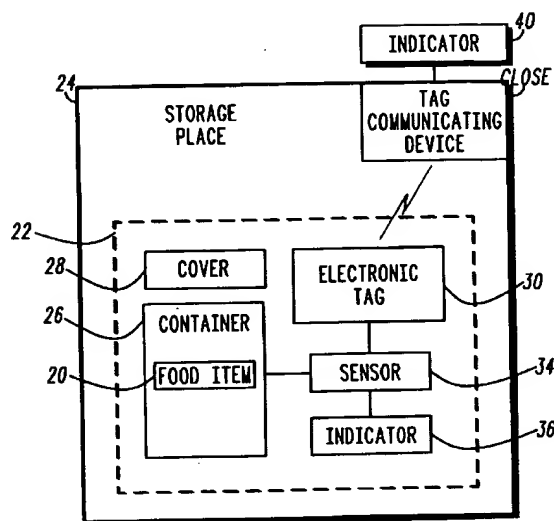


FIG.1

As correctly stated by the Examiner, the first communication device communicates with a second communication device (element 30 of Figures 1 and 5) associated with the object in the work space. The first and the second communication devices communicate with each other through radiofrequency and not through a wire connection.

As shown on Figure 1, the first communication device is connected to an outside indicator 40 by a wire connection passing through the upper wall.

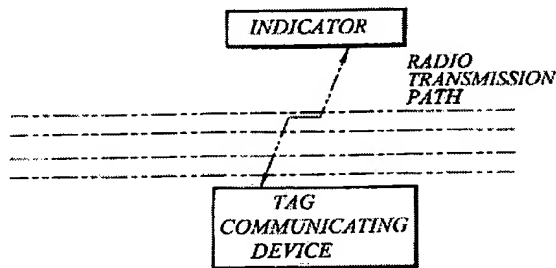
At Official Action page 3, the Examiner contends that:

"Reber et al. fail to disclose a first communication device outside said work space and said antenna being separated from said work space by said at least part of one of said walls.

"Kobayashi et al. disclose a first communication device outside said work space and said antenna being separated from said work space by said at least part of one of said walls (see 13, fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Reber et al. with the above teaching of Kobayashi et al. in order to provide the thermal conductivity of the radio transmission path is generally smaller than that of a conductor, so that heat flowing in and out between the outside and the inner chamber is suppressed as suggested by Kobayashi et al. (see col. 2 line 65 through col. 3 line 3)."

In KOBAYASHI, a wire connection between a first element 13 and a second element 14 is replaced by a radio transmission path (Figure 1). Consequently, the only modification that KOBAYASHI could teach is to replace the wire connection of REBER by a radio wave path.

Assuming that such a modification would have been obviously applied to REBER, which applicants deny, KOBAYASHI would only suggest the replacement of the wire connection between the indicator and the tag communication device, as shown below.



Thus, the tag communicating device (the recited first communicating device) would still be inside the work place.

In contrast with the Examiner's contention, there is no teaching of the required "a communication system that includes a first communication device outside said work space, a radio frequency antenna connected to said first communication device,".

Nothing in KOBAYASHI teaches to place, outside the work space, the coupling means 14 provided inside the work space.

Therefore, even if the combination of REBER and KOBAYASHI was obvious, the resultant refrigerator would still fall short of yielding the claimed invention.

Since the combination of REBER and KOBAYASHI would not result in the recited invention, the obviousness rejection is clearly in error. The Examiner's position that each recited feature would be present in the modified REBER is clear factual error. To make an obviousness rejection without a teaching of each recited feature is clear legal error.

The rejection of the dependent claims is also clearly in error as they depend from an allowable independent claim.

Accordingly, the rejections include both clear factual error and clear legal error. In view of this, applicants respectfully request that the rejections of record be withdrawn and the claims allowed.